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ABSTRACT

The Telecommunications Act of 1996 constitutes a major overhaul of telecommunications law and will have a major impact on rural residents, communities, schools, libraries, and hospitals. The Federal Communications Commission (FCC) is requesting comments from "the grassroots" about telecommunications issues and concerns of greatest importance. After giving a brief background of the Telecommunications Act of 1996, the Universal Service Fund, and the FCC rule-making process, this policy brief outlines the decisions of greatest impact in rural and underserved areas, and provides background and details to enable rural citizens to communicate their perspective to the FCC. The critical rural decisions presented are: (1) which customer services will be eligible for support under the Universal Service Fund? (2) what is the timetable that the FCC will use to implement all recommendations? (3) by what process will all interstate and intrastate telecommunications service providers equitably contribute to the Universal Service Fund, either at the federal or state level? (4) how can quality telecommunications services be made available at "just, reasonable, and affordable rates" to all customers? (5) what discount will be provided to schools at "rates less than the amount charged for similar service to other parties"? and (6) how can access to advanced telecommunications and information services be enhanced, to the extent that it is technically feasible and economically reasonable? Instructions for submitting formal and informal comments to the FCC are included. (TD)

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September, 1996 **RUPRI POLICY BRIEF**

ED 410 080

THE TELECOMMUNICATIONS ACT OF 1996:
The Rural Impacts of Critical FCC Telecommunications Access Decisions

OVERVIEW

This RUPRI Policy Brief concerns dramatic changes underway in the telecommunications industry which will impact all rural residents, communities, schools, libraries, and hospitals in the very near future. This Brief is intended to acquaint rural citizens and rural organizations with these issues, briefly outline the decisions of greatest impact in rural and underserved areas, and provide a framework and details so rural citizens can communicate their perspective on these anticipated changes to the Federal Communications Commission (FCC), the regulatory body that has ultimate responsibility for these decisions.

Timing is critical, if rural organizations and individuals want to assure their perspective is an integral part of this decision making process. While these issues are still being considered, the FCC is requesting comments from "the grassroots" about issues and concerns of greatest importance. The decision time frame is short, and the need for rural input is urgent.

Should you wish to engage this process, information is provided regarding how, where, when, and in what form to communicate your views about rural telecommunication needs to the FCC. The telecommunications companies (telcos, for short) are continuing to provide considerable commentary to the FCC regarding their considerations and concerns. In order for the FCC to fully understand the breadth and scope of these rural impacts, it is important that they also hear from local rural communities and citizens as well. This will enable the FCC to better understand potentially unknown or unintended rural implications, of which they may not be aware. Telcos, customers, and the FCC have a very limited basis of experience on which to base these recommendations. Many new pathways are being forged. Thus, while immediate comment from the public is important, interested parties in rural America should become involved **now**, and for the long haul.

There are many questions that are yet to be determined by the FCC, with major consequences for rural people and places. Several key issues are briefly outlined below:

(1) What services should be included in the definition of "universal service?"
(2) How can access to the Internet and other high bandwidth applications be ensured in rural areas and at affordable costs?

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(3) How quickly should the provisions of the Act be implemented?
(4) How should a Universal Service Fund be funded?
(5) How might a definition of "affordable" be constructed?
(6) For what telecommunications services should schools, hospitals, and libraries receive a discount?
(7) Should restrictions be placed on schools, hospitals, and libraries in "sharing the cost" of discounted services with other community users?

INTRODUCTION

Congress passed the Telecommunications Act of 1996 in February. When President Clinton signed this legislation, the most sweeping overhaul of telecommunications law since 1934 began. While this legislation is extremely complex, the underlying principle is increased deregulation, in the name of increased competition, and eventually, better access and more affordable telecommunications service. Of particular interest in this Brief are critical sections of the Act which direct special attention to the needs of (1) rural customers, and (2) schools, libraries, and hospitals, wherever they are located.

Passage of the Telecommunications Act comes as enormous changes are occurring in the demands placed on the nation's telecommunications system. Nearly 40% of American households possess computers, resulting in a constantly expanding demand for access to the Internet, the World Wide Web, and other information services. The number of households with fax machines has also increased substantially. A significant factor driving the purchase of these computers and fax machines is the expectation that information services and telephones can be accessed at affordable costs. Thus, demand is shifting from voice quality lines to digital lines on which fast, high quality connections can be achieved.

As this telecommunication demand has grown, and recent technological advances in computers, computer networks, and wireless systems (microwave, infrared, satellite) created a multitude of new telecommunications possibilities, existing regulations became increasingly obsolete. The Telecommunications Act of 1996 is omnibus legislation intended to rectify these problems. These issues are complex, and the technological and legal challenges presented to regulators as they attempt to implement this legislation are quite daunting. Unfortunately, this complexity also lessens the probability that effective grass roots commentary from the general rural public will be forwarded to the FCC, in a time frame which will allow these views to be part of the decision making process.

This Brief is intended to assist in this process, laying out this necessary information in simple and understandable language. The RUPRI Rural Telecommunications Task Force outlines six critical decisions with wide-ranging rural implications, provides a brief background review, and lists the major issues related to each decision. The intent of the Task Force is to objectively assess and briefly outline the most critical of these decisions, in terms of potential rural community impact.

GENERAL BACKGROUND: THE TELECOMMUNICATIONS ACT OF 1996 AND THE UNIVERSAL SERVICE FUND

This Act removes the statutory and court-ordered barriers to competition within the telecommunications industry, enabling regional companies, long-distance carriers, cable companies, and other firms to compete head-on for customers. The legislative assumption underlying this approach is that sufficient competition tends to drive down prices paid by consumers, resulting in more efficient and better service. Time will tell. In rural areas, however, competition is expected to be less intense. In theory, this could mean that the benefits of deregulation could eventually turn into handicaps for rural communities and citizens. Many would argue that bringing to telecommunications the same competition that was brought to rural rail, air, bus and trucking services is undesirable. In many instances, one frequent result was abandonment of services, while in others the lack of competition resulted in significantly higher rural costs.

This problem was recognized long ago, in the Telecommunication Act of 1934, which established the first "Universal Service Fund" (USF). In effect, that Fund subsidized service in places like rural America, where it is more costly for companies to provide telephone service, ensuring that any citizen in the United States, regardless of where they lived, could have telephone services at affordable rates. All long-distance carriers have traditionally had to pay into the USF, with local exchange companies able to draw down from this fund to help subsidize the cost of providing basic service to customers in these high-cost areas.

The USF is included prominently in the new Act. However, modern telecommunication resources were not available when the 1934 Act was passed, and the original legislation made no reference to schools, libraries, or health care providers. Specifically, Section 254 provides for: (1) a redefinition of the basic services to which all Americans should have access; (2) "affordable" rates for rural (and other high-cost) customers; (3) a redefinition of the structure and management of the USF; and (4) a "discount" for services to schools, libraries, and health care providers, requiring that all have affordable communications rates.

FCC RULE-MAKING PROCESS

Complex laws such as the Telecommunications Act of 1996 require rule making by regulatory agencies prior to their implementation. In this case, the Federal Communications Commission (FCC) must determine the interstate rates, the services, and how to raise the funds necessary to pay for these Section 254 services. Then, state Public Utility Commissions (PUC's) must determine the affordable rates, services, and fund-raising mechanisms for intrastate services. The FCC has appointed a Joint State/Federal Board to recommend changes in existing FCC rules to fulfill these regulatory mandates. This special body, "The Joint Board," consists of three FCC Commissioners, four State Commissioners, and one consumer advocate. The Joint Board must make recommendations to the FCC by November 8, 1996. The FCC is required to rule on these initial recommendations of the Joint

Board by May, 1997. Focal points of possible changes include, among others: the *services to be supported by the USF* and a *timetable* for implementation of these changes. Because the FCC has never before defined affordability, development of new rules to implement the Act becomes a more complicated process.

CRITICAL RURAL DECISIONS

The Joint Board is now working to develop its recommendations to the FCC. The complexity of these multiple issues complicates the ability of local rural citizens to effectively articulate their concerns. However, the RUPRI Task Force has outlined below the six most critical rural decisions, from among the many which must be addressed by the Joint Board and FCC. After each decision, a brief background overview is presented, as well as a short set of rural issues which should be considered in this decision process. We hope this is helpful to rural organizations and citizens, as they seek to understand and engage this process.

Critical Decision One:

What customer services will be eligible for support under the Universal Service Fund?

Background:

The Act states that four criteria should be taken into account in defining "universal services," that is, the extent to which the service is:

a) essential to education, public health, or public safety
b) being subscribed to by a substantial majority of residential customers
c) being deployed in public telecommunications networks
d) consistent with public interest, convenience, and necessity

Among those services routinely mentioned for consideration as a Universal Service are: (1) voice grade access to the public switched network, including access to both local and long-distance calling; (2) touch tone; (3) single party service; (4) access to 911 and/or enhanced 911; (5) operator services; (6) automatic number identification; (7) directory assistance; and (8) white page listings. Others argue that universal service needs to be extended to include Internet access and other machine to machine services, such as high-speed fax lines, at affordable costs.

The Act provides an opportunity to extend the definition of basic services, to include some services which now are routinely available only in most cities. However, a critical decision must be made regarding how far to extend the new definition of "universal services." Much of rural America

has traditionally been far less likely to have access to advanced communication technology other than POTS voice only services (plain old telephone service). Machine to machine connections such as internet, high speed fax, etc., are some of the types of connections being discussed for possible inclusion within a new "universal services" definition. A decision regarding the value of such an extended definition must be weighed against the potential burden which such a designation would place on the Universal Service Fund, and whether there are other ways to achieve rural access to these needed services.

Issues:

- What services should be included in the definition of "universal service?"
- What are the implications for not including Internet access or other non-voice grade services as a "universal service?"
- How should advances in technology and services be taken into account in defining "universal service?"
- How often should the definition of universal services be reassessed?

Critical Decision Two:

What is the specific timetable by which the FCC will implement all recommendations?

Background:

The time line upon which the FCC implements all eventual recommendations is critical for rural America. A timetable which places implementation far into the future will place rural communities and institutions at a long-term disadvantage. Participating in the information age has a steep learning curve. An extended period of time without equal access to advanced services may remove the opportunity for rural institutions to fairly compete in an economy increasingly dependent on telecommunications. Attention must also be given to the fragile nature of many rural institutions and infrastructure networks, in this case the telecommunications sector. Sensitivity to the unique rural implications of transition mechanisms, as recommendations are implemented, is also an important consideration.

Issue:

- How quickly should the provisions of the Act be implemented?

Critical Decision Three:

By what process will all interstate and intrastate telecommunications service providers equitably contribute to the Universal Service Fund, either at the federal or state level?

Background:

The concept of a Universal Service Fund (USF) has been in place since 1934. It was implemented because the cost of providing telephone services in rural, sparsely populated areas was generally far more expensive than in urban, highly populated areas and because it was not felt to be in the public interest to charge rural customers far more than urban customers for the same service. Telecommunications carriers who provide services to rural, isolated, or high-cost areas are able to draw funds from the USF, instead of passing all costs directly on to customers in these areas. The Act states that all telecommunications carriers shall contribute equitably to the USF, at either the state or federal level.

When identifying a process by which all carriers contribute to a USF, it will be important to remember the increased costs associated with providing telecommunications and information to rural areas. The Act opens the door for telecommunications services to be provided by many entities, other than traditional telephone companies. So, too, will the requirement for contribution to the USF be extended to *all* telecommunications providers. This will obviously increase the number of contributors to the USF and therefore, potentially, the total amount of contributions to the Fund. In the past, however, rural telcos have been the primary recipients of Universal Service funds. It is unclear what impacts rural telcos and all other telecommunications carriers will bear when both become contributors to and recipients of Universal Service Funds.

Issue:

- Should a contribution to the USF be assessed on all eligible telecommunications providers, or should a surcharge be added to customer bills in order to pay for discounted "advance" or "special" services for schools, hospitals, and libraries?

Critical Decision Four:

How can quality telecommunications services be made available at "just, reasonable, and affordable rates" to all customers?

Background:

In answer to this challenge, one simple approach which has been suggested by several respondents to the FCC's Notice of Proposed Rule making has been the use of a national benchmark rate, to explicitly define what is an "affordable" level, with the benchmark rate being the average of all rates for basic service. Others have proposed that in areas where phone lines exist in 95-98% of all homes, affordability is assured. Many others have advocated the continuation of a "lifeline subsidy," for which those customers unable to afford even a reduced rate might apply.

Issues:

- How might a definition of "affordable" be constructed?
- Should a "lifeline subsidy" for very low-income customers be continued or expanded?

Critical Decision Five:

What will be the discount provided to schools "at rates less than the amount charged for similar service to other parties?"

Background:

The setting of a discount rate which is not flexible and not based on the actual rural differential in access and cost could severely limit rural access to many needed telecommunication and information services. A standard discount, irrespective of individual locale, may fail to achieve affordable access for rural schools, hospitals and libraries.

Issues:

- What factors should be taken into account in providing "universal services" to elementary schools, secondary schools, libraries, and hospitals at rates less than the amounts charged for similar services to other parties?
- Are there advantages of a series of "graduated discounts" over other suggested methods such as a "voucher" system, block grants to states, or direct disbursement of Universal Service funds in a "funds-to-schools approach?"
- Should any services be provided free to schools, hospitals, or libraries or will that put an unnecessary burden on the size of the USF?
- If any services are offered free to schools, hospitals, and libraries, will there be the temptation to request unneeded services?
- How might the issue of "affordability" be addressed with respect to schools, hospitals,

and libraries?

Critical Decision Six:

How can access to advanced telecommunications and information services be enhanced, to the extent that is it technically feasible and economically reasonable?

Background:

The Act extends the options for the FCC to include "special" or "advanced" services for which the Universal Service Fund may provide support to telecommunications carriers, to help offset the discounted rate provided to schools, libraries, and hospitals. Possible special or advanced services which have been mentioned are: (1)Internet access; (2) various distance learning technologies; (3) telemedicine technologies; and (4) broadband access for voice, data, graphics and video. Others have advocated that eligible services include all services which are commercially available, with the school, library, or hospital being free to select those services which most appropriately meet their needs.

Flexibility is a key concept when defining applicable services for rural residents. Stringent restrictions on supported services may place rural schools at a disadvantage when selecting from the menu of available cost-effective services in their community. Higher costs in rural communities may underscore the need for schools to have the flexibility to choose those services which best meet their local needs.

Issues:

- Should there be a specific list of eligible services available to schools, libraries and hospitals or should consumers be able to choose from among all services, those which best meet their local needs?
- Should special or advanced services also be provided to schools, hospitals and libraries at reduced rates?
- If special or advanced services are not included as USF-eligible services to schools, hospitals, and libraries, will such institutions in rural areas have reliable, affordable access to needed Internet, distance learning or telemedical applications?
- How can a discount procedure be established which will result in access to "interexchange services" and at rates that are "reasonably comparable" to those in urban areas, as the Act states?
- Should the inside wiring costs for computer networks for schools be included as an "allowable" cost (for which USF reimbursement would be made), or are there alternative ways in which inside wiring might be achieved without creating an additional burden on the USF?

While the Act does prohibit the resale of telecommunications services supported by the USF, should restrictions be placed on schools, hospitals, and libraries in "sharing the cost" of discounted services with other agencies, organizations, institutions, and/or businesses in the local community?

COMMUNICATING WITH THE FEDERAL COMMUNICATIONS COMMISSION

If you want to express your concerns regarding the rural implications of these decisions, written comments regarding any of these issues should be directed to the FCC at:

Federal Communications Commissions
Office of the Secretary
1919 M Street, NW
Room 222
Washington, DC 20554

Nine copies of your comments are required to insure that all FCC Commissioners receive a copy. Four copies are required in order to file a "formal comment. Receipt of one copy by the FCC constitutes an "informal" comment. Alternately, comments may be made by e-mail to:

E-mail address: learnct@fcc.gov

All e-mails are considered informal comments.

It is imperative that the FCC docket number be included on all comments. "CC Docket Number 96-45" should appear on the first page, so that it is known that the comment pertains to 'Universal Service.'

The RUPRI Rural Telecommunications Task Force

The Rural Policy Institute has assembled a distinguished group of national rural policy analysts and practitioners, to serve as an ongoing research and decision-support resource for policy makers concerned with the rural implications involved in the implementation and evaluation of the Telecommunications Act of 1996. This RUPRI Rural Telecommunications Task Force was chosen to reflect geographic, disciplinary, and organizational diversity. Members of the Task Force are listed below:

John Allen, University of Nebraska - Lincoln
Don Dillman, Washington State University
Chuck Fluharty, Rural Policy Research Institute
Vicki Hobbs, Missouri Interactive Telecommunications Education Network
Craig Howley, ERIC Clearinghouse on Rural Education and Small Schools, Appalachia Educational Laboratory, Inc.
Paul Stapleton, Charlotte, Virginia County School Board

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The Rural Policy Research Institute (RUPRI) conducts research and facilitates public dialogue designed to assist policy makers in understanding the rural impacts of public policies and programs. Through topical research, policy impact modeling, and national Expert Panels and Task Forces, RUPRI has established a reputation for bringing the best available science to public policy decision making.

This comprehensive approach to national rural policy analysis involves scientists from member institutions at Iowa State University, the University of Missouri, and the University of Nebraska, as well as researchers, practitioners and analysts from numerous universities, research institutes, and other organizations nationwide. To date, over 150 scientists representing 14 different disciplines in 60 universities and 43 states have participated in RUPRI projects. Currently, 50 nationally recognized scientists from 38 institutions serve as scholars on various RUPRI Expert Panels and Task Forces.

RUPRI Office
200 Mumford Hall
University of Missouri
Columbia, MO 65211
Phone: (573) 882-0316
FAX: (573) 884-5310
E-mail: rupri@muccmail.missouri.edu
Visit our WWW site at: http://rupri.org